Submitted by Jim O'Connor — Girard Miller
Suggested amendment

Girard's suggested amendments to 4075

A. 518 (1) The bill apparently includes a sunset provision of Sept 30, 2010. To provide for more durable authority, you could add a clause: "and at any subsequent time when the Treasury department determines that issuance of bonds for the purposes herein is generally timely, reasonable and prudent because of favorable interest rates and investable capital markets prices," (This would enable the Treasury department to determine in the future when there is a viable "benefits bonds window.")

B. Suggest you insert text on line 5, after "unfunded accrued liability" as follows: "for pension and other post-employment retirement benefits" so that this authority extends also to pension obligation bonds.

C. On Page 2, 518(4), at the bottom line includes this text, and I propose you replace these sentences with the text immediately following this text block:

A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL HAVE THE POWER TO CREATE A TRUST TO CARRY OUT THE PURPOSES OF THIS SUBSECTION. THE TRUST CREATED UNDER THIS SUBSECTION SHALL INVEST ITS FUNDS IN THE SAME MANNER AS FUNDS INVESTED BY A HEALTH CARE TRUST FUND.

REPLACE WITH:

A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL HAVE THE POWER TO

(A) Establish or join a trust for the funding and payment of retirement benefits, retiree medical benefits and other post employment benefits with the same investment powers as public pension funds, endowment funds or other retirement trust funds allowed by law (*If necessary, cite Act 314 of 1965*) and

(B) (i) Establish a separate trust for monies raised through the issuance of debt for the purposes of improving the funding of any retirement benefits plan, and provide independently for the investment and disposition of such debt proceeds and associated funds.

(ii) Notwithstanding any other limitations on investments under law, the authority under this Section (4)(B) shall include the necessary powers to invest all such monies held in such separate trusts in part or entirely in common stocks managed professionally, registered stock index funds, and any other securities or investment vehicles otherwise authorized by law for the investment of trust funds or pension plans.

(iii) Trust funds authorized under this Section (4)(B)may be invested in any assets permitted herein without limitation as to proportions or percentages, subject to provisions in the trust agreement or written investment policies. The governing body of the issuer of the debt obligations, or a professional financial adviser, shall determine in writing that the trust's investment allocation guidelines or limits are appropriate to minimize the volume of debt required to achieve its objectives and may specify the maximum or minimum allocations for specific asset classes within the trust, taking into account the associated plan's overall asset allocations and other investment considerations including the use of debt proceeds.

(iv) Trust investments shall be made in accordance with written policies which require prudent oversight by the trustees or their agents upon the recommendation or discretion of a registered investment adviser.

(v) The special investment powers authorized by this Section (4)(B) shall not extend to other retirement plan trust funds unless otherwise provided by law.

(vi) The actuarial valuation of a pension or retirement plan shall include such separate debt-financed trust funds as a valuation asset for the entire plan, subject to the actuarial reduction for any reserves for debt repayment that the trust agreement or the trustees may establish. The actuarial valuation shall not be diminished by the source or location of trust assets or whether the trust is governed by independent trustees.

(vii) A majority of its trustees shall be qualified and selected on the basis of financial or investment training and experience, and may not be beneficiaries of the plan. No trustee may vote on a matter that affects his or her benefits personally and directly, including a plan design or benefits change or a discretionary decision to transfer assets to a benefits plan which would thereafter increase his or her benefits, and such trustees shall be barred by law from receiving any increase in benefits approved as a trustee.

(viii) Such trusts may provide for the repayment of debt obligations from the assets of the trust, and for reserves in anticipation of possible future market fluctuations.

(ix) Such trusts may provide for contributions or transfers, including securities in kind, to a pension plan or other retirement plan in lieu of the employer's actuarially required contributions, and for the direct or indirect repayment of the associated debt obligations including advance repayment of such obligations.

D. Add a new subparagraph (F) under 518(4)

As long as debt principal remains outstanding or increased taxes are levied hereby, any surplus of benefits plan assets in excess of accrued actuarial liabilities shall be (i) held as a reserve for capital market fluctuations or (ii) amortized as a reduction of employer contributions over such period as the actuary shall determine appropriate under those circumstances, or (iii) used for repayment of the associated debt obligations; and may not be used for any other purpose.

E. 518(9) which now reads as follows, could be better written to include other retirement plans as well:

(9) MUNICIPAL SECURITIES ISSUED UNDER SUBSECTION (1) OR (3) BY A COUNTY, CITY, VILLAGE, OR TOWNSHIP SHALL NOT ON A CUMULATIVE BASIS EXCEED 75% OF CURRENT UNFUNDED ACCRUED LIABILITIES FOR PENSION, RETIREMENT OR POSTEMPLOYMENT HEALTH CARE BENEFITS OWED TO EMPLOYEES OF THE COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT EXIST ON THE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

Frankly, I would prefer to see you eliminate the "75% of unfunded liabilities on the date of this amendatory act" and instead insert at the beginning: "At the time of issuance," and then replace text after the word Township: "shall not result in an actuarial funding ratio in excess of 85% of the pension, retirement or postemployment benefits plan's most recently calculated accrued actuarial liabilities."